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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Albert R. Ancil, et al.
Serial No. 10/768,331
Filed: January 30, 2004
Confirmation No.: 6536
Title: INJECTION MOLDING
Attorney Docket: 18005
Group Art Unit: 1732
Examiner: J. M. Wollschlager
In Response To: Office Action
Mailed April 14, 2006

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Diana Castillo
(Name of Person Making Deposit)

Diana Castillo
(Signature)

April 21, 2006
(Date)

RESPONSE TO RESTRICTION REQUIREMENT

Claims 1-14 are pending in the present application.

The Examiner has required restriction among claims 1-14, claims 1, 3-5 and 7-8 being designated Group I, claims 2 and 6 being designated Group II, and claims 9-14 being designated Group III. Applicants traverse this restriction requirement as applied to claims 2 and 6.

Claims 2 and 6 are drafted as product-by-process claims, dependent upon preceding process (method) claims, and therefore incorporating the process limitations of the parent claims by reason of such dependency. 35 USC 112, paragraph 4.

Furthermore, it will be noted that the article of claim 2 and the plastic preform of claim 6 are defined entirely by the process limitations of the parent claims, which is to say that there is no additional structure recited in dependent claims 2 and 6. Therefore, it necessarily follows that the products of claims 2 and 6, as claimed, cannot be made by another and materially different process inasmuch as the process limitations of the parent claims are expressly incorporated into the dependent claims. Furthermore, the processes of parent claims 1 and 5 as claimed necessarily cannot be used to make another and materially different product. Therefore, dependent product-by-process claims 2 and 6 are neither independent of nor distinct from the methods or processes recited in parent claims 1 and 5. MPEP 806.05(f).

Moreover, every restriction requirement involves not only the reasons why the inventions as claimed allegedly are independent or distinct, but also the reasons for insisting upon restriction. MPEP 808. Inasmuch as a search on method claims 1, 3-5 and 7-8 will necessarily involve the same art as would apply to dependent claims 2 and 6 as claimed, there is no reason for insisting upon restriction as to claims 2 and 6 over claims 1, 3-5 and 7-8.

Subject to the foregoing traverse relative to claims 2 and 6, applicants elect claims 1, 3-5 and 7-8, claim Group I, for prosecution in the present application. This election is made with traverse relative to claims 2 and 6, but without traverse relative to claims 9-14. The election also is made without inference of abandonment of the subject matter recited in the non-elected claims, and without waiver of applicants' right to file one or more divisional or other continuing applications directed to the subject matter of the non-elected claims and entitled to the filing date of the present application.

Please charge any fees associated with this submission to Acct. No. 15-0875 (Owens-Illinois).

Respectfully submitted,

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RCC:hu
Enclosure